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TAB 1

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SUBJECT: July 19 Meeting at UN Headquarters on War Crimes

This is a summary of a meeting held on July 19, 1994 at UN Headquarters concerning the progress of the International War Crimes Tribunal on war crimes in the former Yugoslavia and the possibilities for similar prosecutions with respect to Rwanda. The participants were:

USUN: Ambassador Madeleine Albright and Senior Adviser David Scheffer.

State Department: Legal Adviser Conrad Harper, Principal Deputy Legal Adviser Michael Matheson, Assistant Legal Adviser Bruce Rashkow, Special Assistant Crystal Nix and Attorney-Adviser James O'Brien.

UN Secretariat: Deputy Legal Adviser Ralph Zacklin and Attorney Daphne Schrag.

Tribunal: Prosecutor Richard Goldstone.

Legal Adviser Harper congratulated Goldstone on his appointment as Prosecutor for the Tribunal and promised the full support of the U.S. He reviewed the various forms of support for the Tribunal given and planned by the U.S., which is expected to amount to a total of about \$12 million by the end of 1994. He restated our opposition to any amnesty for war criminals in the former Yugoslavia and our intent to consider a state's cooperation with the Tribunal in any decisions about sanctions. He offered Goldstone a briefing on USG information about the former Yugoslavia; Goldstone accepted and said he would try to visit Washington in August.

Harper then raised two issues of concern about the Yugoslav effort. First, he reiterated our concern that the Tribunal's Rules of Procedure could limit our ability to make intelligence information available to the Prosecutor for background and investigative leads, in that the Rules require the Prosecutor to provide defendants with all information "material" to their defense without any protection for sensitive information and sources. Second, he objected to various actions of the UN Comptroller's Office that were impeding the ability of the Tribunal to make full use of the personnel detailed free of charge by the U.S., including an insistence that the U.S. pay overhead and travel costs.

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Scheffer stressed Ambassador Albright's interest in seeing a qualified woman appointed as a deputy prosecutor; Goldstone noted the Council's interest in someone from a civil law background for that position. Scheffer also emphasized the importance of showing progress in the Tribunal's work by the Fall, when the Tribunal's budget is reviewed by the General Assembly.

Finally, Harper expressed U.S. support for the international investigation and prosecution of persons responsible for the recent atrocities in Rwanda. He urged the Secretariat to move as quickly as possible to constitute the Commission of Experts authorized by the Security Council and to make every effort to conclude the Commission's work well short of the four-month deadline set by the Council. He said that the U.S. believed that, if the Commission confirmed that serious violations had occurred, the Council should amend the Tribunal's Statute to give it jurisdiction over Rwanda offenses as well.

Harper suggested that, to avoid any impairment of the Yugoslav effort, there would be a need for a separate additional staff of prosecutors and investigators for Rwanda, headed by a strong Deputy Prosecutor, as well as new trial chambers to handle the increased caseload. He suggested, however, that it would make sense to have a common appeals chamber, a common Prosecutor in overall charge of all prosecutions, a common registry and shared use of facilities and other resources. He added that the U.S. had asked France and other governments to detain offenders pending such a prosecution effort and is considering proposing a Security Council decision to authorize such action.

Goldstone expressed appreciation for U.S. support and contributions to the Tribunal effort. He said he was proceeding directly to The Hague for preliminary discussions and would officially take up his duties on August 15. He expressed considerable interest and apparent agreement with the U.S. concern about sensitive intelligence and said he would take it up with the Tribunal.

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Goldstone and Zacklin agreed with U.S. objections to the UN Comptroller's actions. Zacklin promised to take the matter up immediately with the Comptroller's Office and Goldstone said that he would insist that these actions be rescinded. (At Harper's request, Zacklin also agreed to communicate with Netherlands authorities to advise them that the UN has no difficulty with the proposee granting of privileges and immunities to the U.S. detailees.)

With respect to Rwanda, Goldstone expressed agreement with the U.S. approach. (He privately told us that he would be happy, as Prosecutor, to preside over both the Yugoslav and Rwanda efforts.) Zacklin appeared also to favor the general thrust of the approach, although he said he might have some differences over the details and expressed concern about any action that might be construed as undermining the Tribunal's work on Yugoslavia. (He later suggested he might favor separate Prosecutors.) He said that he hoped the membership of the Commission of Experts would be announced within the week and intimated that it would consist of three Africans. He agreed that the Commission's work should be expedited.

On the whole, Goldstone projected energy and authority, giving every indication of intending to take charge and proceed vigorously. He seemed interested in continuing close cooperation with the U.S. and a desire to use all the resources and assistance we could offer. Zacklin said the right things about intervening with the Comptroller's Office, but it is unclear whether this will accomplish the necessary results. USUN is prepared to pursue the matter at a high level.

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